

1 C. YONG JEONG, ESQ. (SBN: 255244)
jeong@jeonglikens.com

2 AMY CHOE, ESQ. (SBN: 299870)
3 amy.choe@jeonglikens.com

4 JEONG & LIKENS, L.C.
1055 West 7th Street, Suite 2280
5 Los Angeles, CA 90017
6 Tel: 213-688-2001
Fax: 213-688-2002

7
8 Attorneys for Plaintiff, JITRADE, INC.

9
10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13
14 JITRADE, INC. a California
15 Corporation;

16 Plaintiff,

17 vs.

18 STYLE UP COLLECTION, INC., a
California corporation d/b/a DORCAS;
19 EUN SAM PARK, an individual;
DONG HUN KIM, an individual d/b/a
20 G1K; and DOES 1 through 10,
inclusive,

21 Defendants.
22

Case Number: 2:17-cv-3840

PLAINTIFF'S COMPLAINT FOR:
1. COPYRIGHT INFRINGEMENT
2. VICARIOUS COPYRIGHT
INFRINGEMENT
3. CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

23
24 Plaintiff JITRADE, INC. ("Plaintiff" or "JITRADE) by and through its
25 undersigned attorneys, hereby prays to this honorable Court for relief and remedy
26 based on the following:
27
28

INTRODUCTION

Plaintiff is a California-based company engaged in the apparel industry as a textile converter of imported and domestic fabrications. Plaintiff creates, or purchases and obtains, exclusive rights to unique two-dimensional graphic artworks for use on textiles and garments, and those textiles and garments are transacted primarily in the fashion industry. Plaintiff owns these designs in exclusivity and makes sales of products bearing these designs for profit. Plaintiff's business is predicated on its ownership of these designs and it spends a considerable amount of time and resources creating and obtaining top-quality, marketable and aesthetically-appealing designs. Customers of Plaintiff, including possibly DOE defendants named herein, take design samples with the understanding and agreement that they will only utilize Plaintiff to reproduce said designs should they wish to do so, and will not seek to make minor changes to Plaintiff's proprietary work to reproduce the same elsewhere, yet use those designs in furtherance of their business in violation of both their contractual agreement with Plaintiff and Plaintiff's copyrights. No other party is authorized to make sales of product bearing Plaintiff's proprietary designs without express permission from Plaintiff. This action is brought to recover damages for direct, vicarious and contributory copyright infringement arising out of the misappropriation of Plaintiff's exclusive designs by the Defendants, and each of them.

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a) and (b).

- 1 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a)
2 in that this is the judicial district in which a substantial part of the acts and
3 omissions giving rise to the claims occurred.

4
5 **PARTIES**

- 6 4. JITRADE, INC (“Plaintiff” or “JITRADE”) is a corporation organized and
7 existing under the laws of the State of California with its principal place of
8 business in the County of Los Angeles, at 3450 Wilshire Blvd. Suite 406, Los
9 Angeles, CA 90010.
- 10 5. Plaintiff is informed and believes and thereon alleges that Defendant STYLE
11 UP COLLECTION, INC. d/b/a DORCAS (“DORCAS”), is, and at all times
12 herein mentioned was, a corporation organized and existing under the laws of
13 California and doing business in California, with its principal place of business
14 at 116 E. Pico Blvd., Los Angeles, CA 90015.
- 15 6. Plaintiff is informed and believes and thereon alleges that Defendant EUN
16 SAM PARK (“PARK”), is, and at all times herein mentioned was, an individual
17 organized and existing under the laws of California and doing business in
18 California, with its principal place of business at 116 E. Pico Blvd., Los
19 Angeles, CA 90015.
- 20 7. Plaintiff is informed and believes and thereon alleges that Defendant DONG
21 HUN KIM d/b/a G1K, (“G1K”), is, and at all times herein mentioned was, an
22 individual organized and existing under the laws of California and doing
23 business in California, with its principal place of business at 17008 Yvette Ave.,
24 Cerritos, CA 90703.
- 25 8. Named Defendants, and Does 1-10, may be collectively referred to as
26 “Defendants.”
- 27 9. Plaintiff is informed and believes and thereon alleges that some of Defendants
28 Does 1 through 3, inclusive, are manufacturers and/or vendors of garments to

1 Defendant, which DOE Defendants have manufactured and/or supplied and are
2 manufacturing and/or supplying garments comprised of fabric printed with
3 Plaintiff's copyrighted design(s) (as hereinafter defined) without Plaintiff's
4 knowledge or consent or have contributed to said infringement. The true
5 names, whether corporate, individual or otherwise, and capacities of defendants
6 sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time,
7 and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff
8 will seek leave to amend this complaint to allege their true names and capacities
9 when the same have been ascertained. Plaintiff is informed and believes, and
10 based thereon alleges, that each of defendants designated as a DOE is
11 responsible in some manner for the events alleged herein and the damages
12 caused thereby.

13 10. Defendants DOES 4 through 10, inclusive, are other parties not yet identified
14 who have infringed Plaintiff's copyrights, have contributed to the infringement
15 of Plaintiff's copyrights, or have engaged in one or more of the wrongful
16 practices alleged herein. The true names, whether corporate, individual or
17 otherwise, and capacities of defendants sued herein as Does 4 through 10 are
18 presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said
19 defendants by such fictitious names. Plaintiff will seek leave to amend this
20 complaint to allege their true names and capacities when the same have been
21 ascertained.

22 11. Plaintiff is informed and believes and thereupon alleges that at all times
23 relevant hereto each of Defendants acted in concert with each other, was the
24 agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee
25 of the remaining defendants and was at all times acting within the scope of such
26 agency, affiliation, alter-ego relationship and/or employment; and actively
27 participated in or subsequently ratified and adopted, or both, each and all of the
28 acts or conducts alleged, with full knowledge of all the facts and circumstances,

1 including without limitation to full knowledge of each and every wrongful
2 conducts and Plaintiff's damages caused therefrom.

3
4 **CLAIMS RELATED TO DESIGN**

5 12.Plaintiff is the owner and author of a two-dimensional artwork under title
6 "SND1606_1H" ("Subject Design"). (Exhibit A).

7 13.Plaintiff applied for a copyright from the United States Copyright Office for the
8 Subject Design on November 25, 2016. (Exhibit B).

9 14.Plaintiff formatted the Subject Design for use on textiles, sampled the Subject
10 Design, and negotiated sales of fabric bearing the Subject Design.

11 15.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
12 authorization, Defendant DORCAS purchased, sold, marketed, advertised,
13 manufactured, caused to be manufactured, imported and/or distributed fabric
14 and/or garments comprised of fabric featuring a design which is identical, or
15 substantially similar to, the Subject Design. A true and correct copy of such a
16 garments are attached hereto as Exhibit C. Said garments include but are not
17 limited to garments sold by DORCAS.

18 16.At various times Defendant DORCAS owned and controlled offline and/or
19 online retail stores, and each, Plaintiff's investigation revealed that garments
20 comprised of fabric bearing the Subject Design were being offered for sale,
21 garments which were manufactured and/or imported under the direction of the
22 Defendants, and each of them.

23 17.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
24 authorization, Defendant PARK purchased, sold, marketed, advertised,
25 manufactured, caused to be manufactured, imported and/or distributed fabric
26 and/or garments comprised of fabric featuring a design which is identical, or
27 substantially similar to, the Subject Design. A true and correct copy of such a
28

garments are attached hereto as Exhibit C. Said garments include but are not limited to garments sold by PARK.

18. At various times Defendant PARK owned and controlled offline and/or online retail stores, and each, Plaintiff's investigation revealed that garments comprised of fabric bearing the Subject Design were being offered for sale, garments which were manufactured and/or imported under the direction of the Defendants, and each of them.

19. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's authorization, Defendant G1K purchased, sold, marketed, advertised, manufactured, caused to be manufactured, imported and/or distributed fabric and/or garments comprised of fabric featuring a design which is identical, or substantially similar to, the Subject Design. A true and correct copy of such a garments are attached hereto as Exhibit C. Said garments include but are not limited to garments sold by G1K.

20. At various times Defendant G1K owned and controlled offline and/or online retail stores, and each, Plaintiff's investigation revealed that garments comprised of fabric bearing the Subject Design were being offered for sale, garments which were manufactured and/or imported under the direction of the Defendants, and each of them.

21. None of the aforementioned transactions were authorized by Plaintiff, and all were in violation of Plaintiff's intellectual property rights.

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against all Defendants, and Each)

22. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained in Paragraphs 1 through 21, inclusive, of this Complaint.

1 23.Plaintiff is informed and believes and thereon alleges that Defendants, and each
2 of them, accessed the Subject Designs through, without limitation, the
3 following: (a) access to Plaintiff's design library; (b) access to authorized or
4 unauthorized reproductions in the possession of other vendors and/or DOE
5 Defendants; and (c) access to Plaintiff's strike-offs, swatches, paper CADs and
6 samples.

7 24.Plaintiff is informed and believes and thereon alleges that Defendants, and each
8 of them, infringed Plaintiff's copyright by importing, marketing, advertising,
9 creating, making and/or developing directly infringing and/or derivative works
10 from the Subject Design and by importing, producing, distributing and/or
11 selling infringing garments through a nationwide network of retail stores,
12 catalogues, and online websites.

13 25.Due to Defendants' acts of infringement, Plaintiff has suffered substantial
14 damages to its business in an amount to be established at trial.

15 26.Due to Defendants' acts of infringement, Plaintiff has suffered general and
16 special damages to its business in an amount to be established at trial.

17 27.Due to Defendants' acts of copyright infringement as alleged herein,
18 Defendants, and each of them, have obtained direct and indirect profits they
19 would not otherwise have realized but for their infringement of the Subject
20 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
21 directly and indirectly attributable to Defendants' infringement of the Subject
22 Design in an amount to be established at trial.

23 28.Plaintiff is informed and believes and thereon alleges that Defendants, and each
24 of them, have committed acts of infringement alleged herein with actual or
25 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
26 finding of willful infringement.
27
28

SECOND CLAIM FOR RELIEF

(For Vicarious Copyright Infringement – Against All Defendants)

29. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained hereforeto, inclusive, of this Complaint.

30. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the direct infringing conduct by their authority, ability, and/or control to request, change, suggest, or decline the design featured on the Accused Garment.

31. Plaintiff is informed and believes and thereon alleges that the Defendants had a direct financial interest in the infringer's activity by profiting from featuring the desirable Subject Design on the Accused Garment while declining to exercise their right and/or obligation to stop or limit the infringement by requesting, changing, or suggesting a different design or declining to buy the garment featuring the Subject Design.

32. By reason of the Defendants', and each of their, acts of vicarious infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to established at trial, as well as additional general and special damages in an amount to be established at trial.

33. Due to Defendants' acts of vicarious copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would have not otherwise realized bur for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Design, an amount to be established at trial.

34. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of infringement alleged herein with actual or

1 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
2 finding of willful infringement.

3
4 **THIRD CLAIM FOR RELIEF**

5 (Contributory Copyright Infringement– Against All Defendants)

6 35.Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
7 set forth the allegations contained hereforeto, inclusive, of this Complaint.

8 36.Plaintiff is informed and believes and thereon alleges that Defendants, and each
9 of them, knowingly induced, caused, materially contributed to, participated in,
10 encourages, aided and abetted in and resultantly profited from the illegal
11 reproduction, importation, purchase, marketing, advertising, distribution and/or
12 sales of product featuring the Subject Design as alleged herein above.

13 37.By reason of the Defendants', and each of their, acts of contributory copyright
14 infringement as alleged above, Plaintiff has suffered and will continue to suffer
15 substantial damages to its business in an amount to established at trial, as well
16 as additional general and special damages in an amount to be established at trial.

17 38.Due to Defendants' acts of contributory copyright infringement as alleged
18 herein, Defendants, and each of them, have obtained direct and indirect profits
19 they would have not otherwise realized bur for their infringement of the Subject
20 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
21 directly and indirectly attributable to Defendants' infringement of the Subject
22 Design, an amount to be established at trial.

23 39.Plaintiff is informed and believes and thereon alleges that Defendants, and each
24 of them, have committed acts of infringement alleged herein with actual or
25 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
26 finding of willful infringement.

27
28 **PRAYER FOR RELIEF**

1 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

2
3 **Against All Defendants**

4 With respect to Each Claim for Relief:

- 5 1. That Defendants, their agents and servants be enjoined from infringing
6 Plaintiff's copyrights in any manner;
7 2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff,
8 the exact sum to be proven at time of trial as available under 17 U.S.C. §
9 504(b), or, if elected before final judgment, statutory damages as available
10 under the Copyright Act, 17 U.S.C. § 504(c);
11 3. That Plaintiff be awarded its attorneys' fees as available under the Copyright
12 Act, 17 U.S.C. § 101 *et seq.*;
13 4. That Plaintiff be awarded pre-judgment interest as allowed by law;
14 5. That Plaintiff be awarded costs of litigation; and
15 6. That Plaintiff be awarded such further legal and equitable relief as the Court
16 deems proper.

17
18 **DEMAND FOR TRIAL BY JURY**

19 Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of
20 Civil Procedure 38 and the Seventh Amendment of the Constitution.

21
22 Dated: May 22, 2017

23
24 Respectfully submitted,

25
26 /s/ C. Yong Jeong
27 C. Yong Jeong, Esq.
28 Amy Choe, Esq.

Attorneys for Plaintiff,
JITRADE, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28